

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Infrastructure Corporation of Andhra Pradesh (InCAP) –Development of surplus land at A.P. Bhavan, New Delhi -Construction of Multi-utility Complex (Andhra Pradesh International Centre) at A.P. Bhavan, New Delhi – Cancellation of Letter of Award issued to M/s Nagarjuna Construction Company – NCC Infrastructure Holdings Consortium – Orders - Issued.

INFRASTRUCTURE & INVESTMENT(IID-2) DEPARTMENT

G.O.Ms.No. 8

Dated:20-02-2009.
Read the following:-

1. G.O.Ms.No.38, Infrastructure & Investment (IID-2) Dept.,
Dated 20.9.2008.
2. From the Vice Chairman & Managing Director, InCAP,
Lr.No. INCAP/B/AP Bhavan/106/2006-07, dt. 06-01-2009.

-X-X-X-X-

ORDER:

In the reference 1st read above Government have approved Selection of M/s Nagarjuna Construction Company – NCC Infrastructure Holdings Consortium as the Successful Bidder(NCC Consortium) for construction of Multi-utility Complex (Andhra Pradesh International Centre) at A.P. Bhavan, New Delhi, on BOT basis through Public Private Partnership mode.

2. In the reference 2nd read above the Vice Chairman & Managing Director, Infrastructure Corporation of Andhra Pradesh has interalia informed the Government that in pursuance of the orders issued in the reference 1st read above, Letter of Award was issued to M/s NCC Consortium on 6th October, 2008 for the construction of Multi-utility Complex (Andhra Pradesh International Centre) pursuant to which the NCC Consortium has unconditionally accepted the Letter of Award vide their Letter of Acceptance dated 21st October, 2008.

3. The Vice Chairman & Managing Director, Infrastructure Corporation of Andhra Pradesh has further informed that the NCC Consortium was given 60 days time to execute the Development Agreement (DA) and License Agreement (LA) to Operate and Manage and that instead of executing the DA and LA the NCC Consortium sought time for 60 days without mentioning any reasons for such extension of time. However, 15 days time was allowed by InCAP in order to complete the formalities to sign the DA and LA. Even after expiry of extended time, the NCC Consortium has not

executed/caused execution of the DA and LA and again sought 60 days more time without giving any reason which was not accepted by InCAP. This was intimated to NCC Consortium through Lr.No. INCAP/B/AP Bhavan/106/2006-07, dt. 03-01-2009.

4. The VC& MD, InCAP has reported to Government vide reference 2nd above that the NCC Consortium has committed following events of default, after unconditionally accepting the Letter of Award, and as per RFP conditions, requested directions from the Government on further course of action including issue of letter of cancellation of the LoA.

- i) failure of NCC Consortium to comply with the terms and conditions as mentioned in the Letter of Award dated 06-10-2008 issued to NCC Consortium.
- ii) default to execute the Development Agreement and License Agreement with InCAP within the specified time of 75 days (including extended period of 15 days) from the date of acceptance of LoA;
- iii) default to submit performance security (Rs. 100 crores) before the execution of the DA and LA for the project.
- iv) Default of payment of Rs. 25 crores of the Project Development Expenses to InCAP as specified in the RFP document within the time as specified in the LoA. So far only Rs. 5.00 crores is paid;
- v) Default to incorporate and obtain certificates of commencement of business for the Special Purpose Vehicle (SPV) well before the execution of the DA and LA and obtain approval of InCAP on the Memorandum of Articles of Association of the SPV.
- vi) Default of submission of the required legal documentation in favour of the authorized persons to negotiate and execute the DA and LA.

5. The VC & MD, InCAP has also stated that as per para 15 of the Letter of Award issued to NCC Consortium, the Letter of Award stands withdrawn/cancelled without any notice of whatever nature besides invoking the Bid Security in case of failure by the NCC Consortium to comply with any of the terms and conditions of LoA within the stipulated time, unless extended.

6. In view of the circumstances stated above, the LoA issued to the NCC Consortium stands cancelled after expiry of 75 days time allowed to NCC Consortium for signing the DA and LA.

7. After careful examination of the proposal of the VC&MD, InCAP, Government hereby direct the VC&MD, InCAP to communicate cancellation of LoA to NCC Consortium and take all other necessary consequential action in pursuant of cancellation of LoA.

8. This order issues with the concurrence of the Law and Fin.(Expr.PW) Departments vide their U.O. Note No. 310/LSP/2009, dt. 19-01-2009 and 1813-C/99/A2/Expr.PWD/09, dt. 31-01-2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

MANMOHAN SINGH
SECRETARY TO GOVERNMENT

To
The Vice Chairman & Managing Director,
Infrastructure Corporation of A.P., (InCAP), Hyderabad.

Copy to:

The Resident Commissioner, A.P. Bhavan, New Delhi.
The A.G., A.P., Hyderabad.
Fin. (Expr.PW) Department.
SF/SC.

//Forwarded :: By Order//

SECTION OFFICER.